UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,717	11/26/2003	John D. Colleran	4060	7338

7590   06/13/2006

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EXAMINER
AHLUWALIA, NAVNEET K

ART UNIT	PAPER NUMBER
2166	

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *26 November 2003*.

2a) ☐ This action is **FINAL.**   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-21* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-21* is/are rejected.

7) ☒ Claim(s) *10* is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *26 November 2003* is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   The application has been examined. Claims 1 – 21 are pending in this office

action.

Claim Objections

2.   Claim 10 is objected to because of the following informalities:

Claim 10 states a computer readable medium having computer executable

instructions for performing the method of claim 1. It is unclear as to how the method

instructions would be executable and if they would be executed in any order and also it

is unclear as to how it would be tangible.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

Claim 10 is rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter. Claim 10 is rejected because the language of

claim 10 in view of the definition of the computer readable medium from the detailed

description of the embodiments (Page 7 lines 22 – 24 and Page 8 lines 11 – 23) recites

modulated data signal, carrier wave and signals which are not considered as tangible

and do not form the basis of statutory subject matter under 35 U.S.C. 101.

4.   To expedite a complete examination of the instant application the claims rejected

under 35 U.S.C. 101 (non-statutory) above are further rejected as set forth below in

anticipation of applicant amending these claims to place them within the four categories

of invention.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6.   Claims 1 – 21 are rejected under 35 U.S.C. 102(b) as being anticipated by

Parthesarathy et al. ('Parthesarathy' herein after) (US 6,353,926 B1).

With respect to claim 1,

Parthesarathy discloses in a computing environment, a method comprising:

providing a manifest, the manifest identifying a set of at least one tool that when

executed collects data for analysis (column 6 lines 32 – 42, Parthesarathy); providing a

control mechanism to interpret the manifest, the control mechanism automatically

executing each tool identified in the set to collect the data from a machine (column 5

lines 61 – 67, Parthesarathy); and receiving the data collected from the machine

(column 6 lines 48 – 58, Parthesarathy).

With respect to claim 2,

Parthesarathy discloses the method of claim 1 wherein providing a manifest

comprises providing a mechanism that when clicked on links to the manifest (column 7

lines 22 – 30, Parthesarathy).

With respect to claim 3,

Parthesarathy discloses the method of claim 2 wherein providing the mechanism

comprises providing a URL that when clicked on links to the manifest (column 7 lines 34

– 47, Parthesarathy).

With respect to claim 4,

Parthesarathy discloses the method of claim 1 wherein providing a manifest

comprises sending information about the manifest in an email message (column 10

lines 1 – 3, Parthesarathy).

With respect to claim 5,

Parthesarathy discloses the method of claim 1 wherein providing a manifest

comprises sending information about the manifest in an instant message (column 9

lines 2 – 12, Parthesarathy).

With respect to claim 6,

Parthesarathy discloses the method of claim 1 wherein providing a manifest

comprises providing a site that may be accessed via a browser (column 8 lines 66 – 67

and column 9 lines 1 – 5, Parthesarathy).

With respect to claim 7,

Parthesarathy discloses the method of claim 1 wherein for each tool, the control mechanism determines whether that tool needs to be downloaded and installed to the machine, and if so, the control mechanism further downloading and installing that tool (column 6 lines 48 – 58, Parthesarathy).

With respect to claim 8,

Parthesarathy discloses the method of claim 1, further comprising, running a reporting program to collect the data and package the data for transmission (column 6 lines 13 – 26, Parthesarathy).

With respect to claim 9,

Parthesarathy discloses the method of claim 1 wherein providing the control mechanism comprises transmitting the control mechanism to the machine (column 9 lines 25 – 33, Parthesarathy).

With respect to claim 10,

Parthesarathy discloses a computer-readable medium having computer-executable instructions for performing the method of claim 1 (column 6 lines 32 – 42, column 5 lines 61 – 67 and column 6 lines 48 – 58, Parthesarathy).

With respect to claim 11,

Parthesarathy discloses in a computing environment, a system comprising: a set
of available tools, the tools configured to collect data from a machine (column 6 lines 32
– 42, Parthesarathy); a reporting mechanism that provides access to data collected
from the machine (column 6 lines 48 – 58, Parthesarathy); and a control mechanism
that is communicated to the machine, the control mechanism configured to execute a
subset of the tools to collect data, and further configured to operate the reporting
mechanism to allow analysis of the collected data (column 5 lines 61 – 67,
Parthesarathy).

With respect to claim 12,

Parthesarathy discloses the system of claim 11 wherein the set of available tools
is maintained in a program store associated with a software support entity (column 6
lines 32 – 37, Parthesarathy).

With respect to claim 13,

Parthesarathy discloses the system of claim 11 wherein the control mechanism
executes the subset of tools by interpreting a manifest (column 6 lines 48 – 59,
Parthesarathy).

With respect to claim 14,

Parthesarathy discloses the system of claim 13 wherein the manifest comprises

a data file accessed via a URL (column 7 lines 22 – 30, Parthesarathy).

With respect to claim 15,

Parthesarathy discloses the system of claim 14 further comprising a mechanism

that selects a manifest from among a set of manifests, the selection based on received

user data.

With respect to claim 16,

Parthesarathy discloses the system of claim 14 wherein the control mechanism is

communicated to the machine in response to accessing the URL (column 7 lines 34 –

47, Parthesarathy).

With respect to claim 17,

Parthesarathy discloses the system of claim 11 wherein the control mechanism

downloads to the machine at least one of the tools in the subset (column 9 lines 25 –

33, Parthesarathy).

With respect to claim 18,

Parthesarathy discloses the system of claim 11 wherein the control mechanism

installs at least one of the tools in the subset on the machine (column 48 – 58,

Parthesarathy).

With respect to claim 19,

Parthesarathy discloses the system of claim 11 wherein the control mechanism

compares a version of an existing tool on the machine with a version of a tool in the

subset (Figure 3, Parthesarathy).

With respect to claim 20,

Parthesarathy discloses the system of claim 11 wherein the control mechanism

operates in response to a received user request (column 6 lines 1 – 10, Parthesarathy).

With respect to claim 21,

Parthesarathy discloses the system of claim 20 wherein the control mechanism

executes at least one of the tools in the subset that was already installed on the

machine prior to receiving the user request (column 6 lines 48 – 58 and column 9 lines

25 – 33, Parthesarathy).

Contact Information

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Navneet K. Ahluwalia whose telephone number is 571-

272-5636. The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Alam T. Hosain can be reached on 571-272-3978. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Navneet

Navneet K. Ahluwalia
Examiner
Art Unit 2166

MOHAMMAD ALI
PRIMARY EXAMINER

Dated: 06/07/2006